

110TH CONGRESS
1ST SESSION

H. R. 1534

To prohibit the sale, distribution, or transfer of mercury, to prohibit the export of mercury, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2007

Mr. ALLEN introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the sale, distribution, or transfer of mercury, to prohibit the export of mercury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mercury Export Ban
5 Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) mercury is highly toxic to humans, eco-
9 systems, and wildlife;

1 (2) as many as 10 percent of women in the
2 United States of childbearing age have mercury in
3 the blood at a level that could put a baby at risk;

4 (3) as many as 630,000 children born annually
5 in the United States are at risk of neurological prob-
6 lems related to mercury;

7 (4) the most significant source of mercury expo-
8 sure to people in the United States is ingestion of
9 mercury-contaminated fish;

10 (5) the Environmental Protection Agency re-
11 ports that, as of 2004—

12 (A) 44 States have fish advisories covering
13 over 13,000,000 lake acres and over 750,000
14 river miles;

15 (B) in 21 States the freshwater advisories
16 are statewide; and

17 (C) in 12 States the coastal advisories are
18 statewide;

19 (6) the long-term solution to mercury pollution
20 is to minimize global mercury use and releases to
21 eventually achieve reduced contamination levels in
22 the environment, rather than reducing fish consump-
23 tion since uncontaminated fish represents a critical
24 and healthy source of nutrition worldwide;

1 (7) mercury pollution is a transboundary pollutant,
2 depositing locally, regionally, and globally, and
3 affecting water bodies near industrial sources (including
4 the Great Lakes) and remote areas (including the Arctic Circle);

6 (8) the free trade of mercury on the world market,
7 at relatively low prices and in ready supply, encourages
8 the continued use of mercury outside of the United States,
9 often involving highly dispersive activities such as artisinal
10 gold mining;

11 (9) the intentional use of mercury is declining
12 in the United States as a consequence of process changes
13 to manufactured products (including batteries, paints,
14 switches, and measuring devices), but those uses remain
15 substantial in the developing world where releases from
16 the products are extremely likely due to the limited
17 pollution control and waste management infrastructures
18 in those countries;

20 (10) the member countries of the European Union
21 collectively are the largest source of mercury exports
22 globally;

23 (11) the European Commission has proposed to
24 the European Parliament and to the Council of the

1 European Union a regulation to ban exports of mer-
 2 cury from the European Union by 2011;

3 (12) the United States is a net exporter of mer-
 4 cury and, according to the United States Geological
 5 Survey, exported 506 metric tons of mercury more
 6 than the United States imported during the period
 7 of 2000 through 2004; and

8 (13) banning exports of mercury from the
 9 United States will have a notable affect on the mar-
 10 ket availability of mercury and switching to afford-
 11 able mercury alternatives in the developing world.

12 **SEC. 3. PROHIBITION ON SALE, DISTRIBUTION, OR TRANS-**
 13 **FER OF MERCURY.**

14 Section 6 of the Toxic Substances Control Act (15
 15 U.S.C. 2605) is amended by adding at the end the fol-
 16 lowing:

17 “(f) MERCURY.—

18 “(1) PROHIBITION ON SALE, DISTRIBUTION, OR
 19 TRANSFER OF MERCURY BY FEDERAL AGENCIES.—
 20 Except as provided in paragraph (2), effective begin-
 21 ning on the date of enactment of this subsection, no
 22 Federal agency shall convey, sell, or distribute to
 23 any other Federal agency, any State or local govern-
 24 ment agency, or any private individual or entity any

1 elemental mercury under the control or jurisdiction
2 of the Federal agency.

3 “(2) EXCEPTION.—Paragraph (1) shall not
4 apply to a transfer between Federal agencies of ele-
5 mental mercury for the sole purpose of facilitating
6 storage of mercury to carry out this Act.”.

7 **SEC. 4. PROHIBITION ON EXPORT OF MERCURY.**

8 Section 12 of the Toxic Substances Control Act (15
9 U.S.C. 2611) is amended—

10 (1) in subsection (a) by striking “subsection
11 (b)” and inserting “subsections (b) and (c)”; and

12 (2) by adding at the end the following:

13 “(c) PROHIBITION ON EXPORT OF MERCURY.—

14 “(1) PROHIBITION.—Effective January 1,
15 2010, the export of elemental mercury from the
16 United States is prohibited.

17 “(2) INAPPLICABILITY OF SUBSECTION (a).—
18 Subsection (a) shall not apply to this subsection.

19 “(3) REPORT TO CONGRESS ON MERCURY COM-
20 POUNDS.—

21 “(A) REPORT.—Not later than one year
22 after the date of enactment of the Mercury Ex-
23 port Ban Act of 2007, the Administrator shall
24 publish and submit to Congress a report on
25 mercuric chloride, mercurous chloride or cal-

1 omel, mercuric oxide, and other mercury com-
2 pounds, if any, that may currently be used in
3 significant quantities in products or processes.

4 Such report shall include an analysis of—

5 “(i) the sources and amounts of each
6 of the mercury compounds produced annu-
7 ally in the United States or imported into
8 the United States;

9 “(ii) the purposes for which each of
10 these compounds are used domestically, the
11 amount of these compounds currently con-
12 sumed annually for each purpose, and the
13 estimated amounts to be consumed for
14 each purpose in 2010 and beyond;

15 “(iii) the sources and amounts of each
16 mercury compound exported from the
17 United States annually in each of the last
18 three years;

19 “(iv) the potential for these com-
20 pounds to be processed into elemental mer-
21 cury after export from the United States;
22 and

23 “(v) other information that Congress
24 should consider in determining whether to

1 extend the export prohibition to include
 2 one or more of these mercury compounds.

3 “(B) PROCEDURE.—For the purpose of
 4 preparing the report under this paragraph, the
 5 Administrator may utilize the information gath-
 6 ering authorities of this title, including sections
 7 10 and 11, except that subsection (b)(2) of sec-
 8 tion 11 shall not apply to activities under this
 9 subparagraph.”.

10 **SEC. 5. EXCESS MERCURY STORAGE ADVISORY COM-**
 11 **MITTEE.**

12 (a) AMENDMENT.—Title I of the Toxic Substances
 13 Control Act is amended by adding at the end the following
 14 new section:

15 **“SEC. 32. EXCESS MERCURY STORAGE ADVISORY COM-**
 16 **MITTEE.**

17 “(a) ESTABLISHMENT.—There is established an advi-
 18 sory committee, to be known as the ‘Excess Mercury Stor-
 19 age Advisory Committee’ (referred to in this section as
 20 the ‘Committee’).

21 “(b) MEMBERSHIP.—

22 “(1) IN GENERAL.—The Committee shall be
 23 composed of 9 members, of whom—

1 “(A) 2 members shall be jointly appointed
2 by the Speaker of the House of Representatives
3 and the Majority Leader of the Senate—

4 “(i) 1 of whom shall be designated to
5 serve as Chairperson of the Committee;
6 and

7 “(ii) 1 of whom shall be designated to
8 serve as Vice-Chairperson of the Com-
9 mittee;

10 “(B) 1 member shall be the Administrator;

11 “(C) 1 member shall be the Secretary of
12 Defense;

13 “(D) 1 member shall be a representative of
14 State environmental agencies;

15 “(E) 1 member shall be a representative of
16 State attorneys general;

17 “(F) 1 member shall be a representative of
18 the chlorine industry;

19 “(G) 1 member shall be a representative of
20 the mercury waste treatment industry; and

21 “(H) 1 member shall be a representative of
22 a nonprofit environmental organization.

23 “(2) APPOINTMENTS.—Not later than 45 days
24 after the date of enactment of this section, the Ad-
25 ministrator, in consultation with the appropriate

1 congressional committees, shall appoint the members
2 of the Committee described in subparagraphs (D)
3 through (H) of paragraph (1).

4 “(c) INITIAL MEETING.—Not later than 30 days
5 after the date on which all members of the Committee
6 have been appointed, the Committee shall hold the initial
7 meeting of the Committee.

8 “(d) MEETINGS.—The Committee shall meet at the
9 call of the Chairperson.

10 “(e) QUORUM.—A majority of the members of the
11 Committee shall constitute a quorum.

12 “(f) REPORT.—Not later than 1 year after the date
13 of enactment of this section, the Committee shall submit
14 to Congress a report describing the findings and rec-
15 ommendations of the Committee, if any, relating to—

16 “(1) the environmental, health, and safety re-
17 quirements necessary to prevent—

18 “(A) the release of elemental mercury into
19 the environment; and

20 “(B) worker exposure from the storage of
21 elemental mercury;

22 “(2) the estimated annual cost of storing ele-
23 mental mercury on a per-pound or per-ton basis;

24 “(3) for the 40-year period beginning on the
25 date of submission of the report, the optimal size,

1 number, and other characteristics of Federal facili-
2 ties required to store elemental mercury under cur-
3 rent and anticipated jurisdictions of each Federal
4 agency;

5 “(4) the estimated quantity of—

6 “(A) elemental mercury that will result
7 from the decommissioning of mercury cell chlor-
8 alkali facilities in the United States; and

9 “(B) any other supplies that may require
10 storage to carry out this Act;

11 “(5) for the 40-year period beginning on the
12 date of submission of the report, the estimated
13 quantity of elemental mercury generated from the
14 recycling of unwanted products and other wastes
15 that will require storage to comply with the export
16 prohibitions under this Act;

17 “(6) any legal, technical, economic, or other
18 barrier that may prevent the private sector from
19 storing elemental mercury produced by the private
20 sector during the 40-year period beginning on the
21 date of submission of the report, including a descrip-
22 tion of measures to address the barriers;

23 “(7) the advantages and disadvantages of con-
24 solidating the storage of mercury produced by public

1 and private sources under the management of the
2 public or private sector;

3 “(8) the optimal plan of the Committee for
4 storing excess mercury produced by public and pri-
5 vate sources; and

6 “(9) additional research, if any, required to de-
7 termine a long-term disposal option for the storage
8 of excess mercury.

9 “(g) COMPENSATION OF MEMBERS.—

10 “(1) IN GENERAL.—

11 “(A) NON-FEDERAL EMPLOYEES.—A
12 member of the Committee who is not an officer
13 or employee of the Federal Government shall be
14 compensated at a rate equal to the daily equiva-
15 lent of the annual rate of basic pay prescribed
16 for level V of the Executive Schedule under sec-
17 tion 5316 of title 5, United States Code, for
18 each day (including travel time) during which
19 the member is engaged in the performance of
20 the duties of the Committee.

21 “(B) FEDERAL EMPLOYEES.—A member
22 of the Committee who is an officer or employee
23 of the Federal Government shall serve without
24 compensation in addition to the compensation

1 received for the services of the member as an
2 officer or employee of the Federal Government.

3 “(2) TRAVEL EXPENSES.—A member of the
4 Committee shall be allowed travel expenses, includ-
5 ing per diem in lieu of subsistence, at rates author-
6 ized for an employee of an agency under subchapter
7 I of chapter 57 of title 5, United States Code, while
8 away from the home or regular place of business of
9 the member in the performance of the duties of the
10 Committee.

11 “(h) STAFF AND FUNDING.—The Administrator
12 shall provide to the Committee such funding and addi-
13 tional personnel as are necessary to enable the Committee
14 to perform the duties of the Committee.

15 “(i) TERMINATION.—The Committee shall terminate
16 180 days after the date on which the Committee submits
17 the report of the Committee under subsection (f).”.

18 (b) TABLE OF CONTENTS AMENDMENT.—The table
19 of contents of the Toxic Substances Control Act is amend-
20 ed by adding after the item relating to section 31 the fol-
21 lowing new item:

“Sec. 32. Excess Mercury Storage Advisory Committee.”.

